

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEL MAR TIC I, LLC and DEL MAR TIC II,
LLC,

Plaintiffs,

-against-

THE BANCORP BANK,

Defendant.

1:23-cv-08999 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Plaintiffs filed their Complaint in New York state court on September 8, 2023. *See* ECF No. 1-1. Defendant removed the case to this Court on October 12, 2023. *See* ECF No. 1 (“Notice of Removal”). Defendant asserts that jurisdiction is based on diversity of citizenship, pursuant to 28 U.S.C. § 1332. *See id.* ¶ 6. The Notice of Removal alleges that Defendant is a national banking association with its main office in South Dakota, and thus a citizen of South Dakota for purposes of diversity of citizenship. *Id.* ¶ 7. The Notice of Removal alleges some members of Plaintiffs Del Mark TIC I, LLC and Del Mark TIC II, LLC. *Id.* ¶¶ 9-10. However, Defendant states that other members of these limited liability companies are unknown to Defendant and could not be ascertained after a reasonably diligent search of public records. *Id.* Defendant therefore requests that Plaintiffs provide a statement disclosing this information pursuant to Rule 7.1(a)(2) of the Federal Rules of Civil Procedure (“Rules”) and Rule 81.1 of the Southern District of New York’s Local Rules. *See id.*

Rule 7.1, as amended in 2022, provides as follows:

In an action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a), a party or intervenor must, unless the court orders otherwise, file a disclosure statement. The statement must name – and identify the citizenship of – every individual or entity whose citizenship is attributed to that party or intervenor: (A) when

the action is filed in or removed to federal court, and (B) when any later event occurs that could affect the court's jurisdiction under § 1332(a).

The 2022 Committee Notes indicate that this amendment was adopted, in part, because of the burden imposed on parties seeking to commence a federal suit against limited liability companies. *See* Rule 7.1 advisory committee's note. "[M]any examples of attributed citizenship arise from noncorporate entities that sue or are sued as an entity. A familiar example is a limited liability company, which takes on the citizenship of each of its owners. A party suing an LLC may not have all the information it needs to plead the LLC's citizenship." *Id.* To ensure that diversity jurisdiction exists, this burden is placed not only on the party initiating the federal action, but also "other parties and intervenors." *Id.*; *see, e.g., Kin v. Matte Projects LLC*, No. 21-cv-09317 (LTS), 2023 U.S. Dist. LEXIS 76438, at *2 (S.D.N.Y. May 2, 2023) (ordering disclosures from both the plaintiff and defendant when the action commenced).


Here, Defendant filed a Rule 7.1 disclosure statement, *see* ECF No. 6, but Plaintiffs have not. Accordingly, IT IS HEREBY ORDERED that Plaintiffs shall, **within 10 days of the date of their appearance in this action**, file completed Rule 7.1 disclosure statements, which shall name, and identify the citizenship of, every individual or entity whose citizenship is attributable to that party. *See also Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51-52 (2d Cir. 2000); *U.S. Liab. Ins. Co. v. M Remodeling Corp.*, 444 F. Supp. 3d 408, 410 (E.D.N.Y. 2020) ("[I]f any of an LLC's members are themselves noncorporate entities, then a plaintiff must allege the identity and citizenship of their members, proceeding up the chain of ownership until it has alleged the identity and citizenship of every individual and corporation with a direct or indirect interest in the LLC.").

IT IS FURTHER ORDERED that Plaintiffs shall, **promptly and no later than October 23, 2023**, appear in this action.

IT IS FURTHER ORDERED that Defendant shall, by **October 17, 2023**, file a copy of the state court docket sheet as required by Rule 4(A) of the Court's Individual Rules in Civil Cases and serve this order on Plaintiffs.

Dated: October 16, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge